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SENATE BILL 503

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOSEPH A. FIDEL

AN ACT

RELATING TO INSURANCE; AMENDING CERTAIN SECTIONS OF THE NEW
MEXICO INSURANCE CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-37-2 NMSA 1978 (being Laws 1984,
Chapter 127, Section 617, as amended) is amended to read:

"59A-37-2. DEFINITIONS. --As used in Chapter 59A, Article
37 NMSA 1978:

A. "acquire" means to come into possession or
control of, and "acquisition" means any agreement, arrangement
or activity the consummation of which results in a person
acquiring directly or indirectly the control of another person
and includes [~~but is not limited to~~] the acquisition of voting
securities or assets, bulk reinsurance and mergers;

B. "affiliate" means a person that directly or

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1 indirectly is controlled by, is under common control with or
2 controls another person;

3 C. "control" means the possession of the power to
4 direct or cause the direction of the management and policies of
5 a person, whether directly or indirectly, through the ownership
6 of voting securities, through licensing or franchise agreements,
7 by contract other than a commercial contract for goods or
8 nonmanagement services, or otherwise, unless the power is the
9 result of an official position with or corporate office held by
10 an individual. Control shall be presumed to exist if any
11 person, directly or indirectly, owns, controls, holds with the
12 power to vote or holds ten or more percent of the voting
13 securities of any other person. This presumption may be
14 rebutted by a showing, in the manner provided by Section
15 59A-37-19 NMSA 1978, that control does not in fact exist. The
16 superintendent may determine, after furnishing all persons in
17 interest notice and an opportunity to be heard, that control
18 exists in fact, notwithstanding the absence of a presumption to
19 that effect, provided that the determination is based on
20 specific findings of fact in its support;

21 D. "insurance holding company" is a person [~~whi-eh~~]
22 that controls an insurer; "insurance holding company system"
23 means a combination of two or more affiliated persons, at least
24 one of which is an insurer;

25 E. "insurer" means a person [~~whi-eh~~] that undertakes,

1 under contract, to indemnify a person against loss, damage or
2 liability arising from an unknown or contingent future event.

3 The term does not include agencies, authorities or
4 instrumentalities of the United States, its possessions or
5 territories, the commonwealth of Puerto Rico, the District of
6 Columbia, a state or any of its political subdivisions, a
7 fraternal benefit society or a nonprofit medical and hospital
8 service association;

9 F. "person" means an individual, corporation,
10 association, partnership, joint stock company, trust,
11 unincorporated organization or any similar entity or combination
12 of entities;

13 G. "securityholder" means the owner of any security
14 of a person, including common stock, preferred stock, debt
15 obligations and any other security convertible into or
16 evidencing the right to acquire any of the foregoing;

17 H. "subsidiary" means an affiliate of a person
18 controlled by the person either directly or indirectly through
19 one or more intermediaries;

20 I. "voting security" means a certificate evidencing
21 the ownership or indebtedness of a person, to which is attached
22 a right to vote on the management or policymaking of that person
23 and includes any security convertible into or evidencing a right
24 to acquire such a voting security; and

25 J. "health maintenance organization" means any

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1 person [~~which~~] that undertakes to provide or arrange for the
2 delivery of basic health care services to enrollees on a prepaid
3 basis, except for enrollee responsibility for co-payments or
4 deductibles. "

5 Section 2. Section 59A-46-30 NMSA 1978 (being Laws 1993,
6 Chapter 266, Section 29) is amended to read:

7 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO
8 OTHER LAWS. --

9 A. The provisions of the Insurance Code other than
10 Chapter 59A, Article 46 NMSA 1978 shall not apply to health
11 maintenance organizations except as expressly provided in the
12 Insurance Code and that article. To the extent reasonable and
13 not inconsistent with the provisions of that article, the
14 following articles and provisions of the Insurance Code shall
15 also apply to health maintenance organizations and their
16 promoters, sponsors, directors, officers, employees, agents,
17 solicitors and other representatives [~~and~~]. For the purposes of
18 such applicability, a health maintenance organization may
19 therein be referred to as an "insurer":

- 20 (1) Chapter 59A, Article 1 NMSA 1978;
- 21 (2) Chapter 59A, Article 2 NMSA 1978;
- 22 (3) Chapter 59A, Article 3 NMSA 1978;
- 23 (4) Chapter 59A, Article 4 NMSA 1978;
- 24 (5) Subsection C of Section 59A-5-22 NMSA 1978;
- 25 (6) Sections 59A-6-2 through 59A-6-4 and

1 59A-6-6 NMSA 1978;

2 (7) Chapter 59A, Article 8 NMSA 1978;

3 (8) Chapter 59A, Article 10 NMSA 1978;

4 (9) Section 59A-12-22 NMSA 1978;

5 (10) Chapter 59A, Article 16 NMSA 1978;

6 (11) Chapter 59A, Article 18 NMSA 1978;

7 (12) Chapter 59A, Article 19 NMSA 1978;

8 (13) Chapter 59A, Article 23B NMSA 1978;

9 (14) Sections 59A-34-9 through 59A-34-13,
10 59A-34-17, 59A-34-23, 59A-34-36 and 59A-34-37 NMSA 1978; and

11 (15) Chapter 59A, Article 37 NMSA 1978.

12 B. Solicitation of enrollees by a health maintenance
13 organization granted a certificate of authority, or its
14 representatives, shall not be construed as violating any
15 provision of law relating to solicitation or advertising by
16 health professionals, but health professionals shall be
17 individually subject to the laws, rules, regulations and ethical
18 provisions governing their individual professions.

19 C. Any health maintenance organization authorized
20 under the provisions of the Health Maintenance Organization Law
21 shall not be deemed to be practicing medicine and shall be
22 exempt from the provisions of laws relating to the practice of
23 medicine. "

24 Section 3. Section 59A-47-33 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 879.32, as amended by Laws 1994, Chapter

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1 64, Section 10 and also by Laws 1994, Chapter 75, Section 34) is
2 amended to read:

3 "59A-47-33. OTHER PROVISIONS APPLICABLE. -- The provisions
4 of the Insurance Code other than Chapter 59A, Article 47 NMSA
5 1978 shall not apply to health care plans except as expressly
6 provided in the Insurance Code and that article. To the extent
7 reasonable and not inconsistent with the provisions of that
8 article, the following articles and provisions of the Insurance
9 Code shall also apply to health care plans, their promoters,
10 sponsors, directors, officers, employees, agents, solicitors and
11 other representatives; and, for the purposes of such
12 applicability, a health care plan may therein be referred to as
13 an "insurer":

- 14 A. Chapter 59A, Article 1 NMSA 1978;
- 15 B. Chapter 59A, Article 2 NMSA 1978;
- 16 C. Chapter 59A, Article 4 NMSA 1978;
- 17 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 18 E. Sections 59A-6-2 through 59A-6-4 and
19 59A-6-6 NMSA 1978;
- 20 F. Section 59A-7-11 NMSA 1978;
- 21 G. Chapter 59A, Article 8 NMSA 1978;
- 22 H. Chapter 59A, Article 10 NMSA 1978;
- 23 I. Section 59A-12-22 NMSA 1978;
- 24 J. Chapter 59A, Article 16 NMSA 1978;
- 25 K. Chapter 59A, Article 18 NMSA 1978;

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- 1 L. Chapter 59A, Article 19 NMSA 1978;
- 2 M. Subsections B through E of Section
- 3 59A-22-5 NMSA 1978;
- 4 N. Section 59A-22-34.1 NMSA 1978;
- 5 O. Section 59A-22-39 NMSA 1978;
- 6 P. Section 59A-22-40 NMSA 1978;
- 7 Q. Sections 59A-34-9 through 59A-34-13, [~~NMSA 1978~~]
- 8 59A-34-17 and [~~Section~~] 59A-34-23 NMSA 1978;
- 9 R. Chapter 59A, Article 37 NMSA 1978, except Section
- 10 59A-37-7 NMSA 1978; and
- 11 S. Section 59A-46-15 NMSA 1978. "

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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6 February 13, 1997
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8 Mr. President:
9

10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
11 whom has been referred
12

13 SENATE BILL 503
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS.
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19 Respectfully submitted,
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23 _____
24 Roman M. Maes, III, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: Gri ego, Maes

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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No: None

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Absent: None

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. Speaker:

Your **BUSINESS AND INDUSTRY COMMITTEE**, to whom has
been referred

SENATE BILL 503

has had it under consideration and reports same with
recommendation that it **DO PASS**.

Respectfully submitted,

Fred Luna, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBIC/SB 503

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Alwin, Hobbs, Varela

Absent: Getty

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